

Senator Karen Mayne proposes the following substitute bill:

INCORPORATION AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to the incorporation of a city or town.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends language related to a request for a feasibility study;
- ▶ amends language related to the exclusion of property from proposed incorporation boundaries;
- ▶ amends language related to the certification of a request for a feasibility study;
- ▶ amends provisions that require a city incorporation feasibility study;
- ▶ amends language related to a city incorporation petition;
- ▶ amends language related to an incorporation of a city election;
- ▶ amends provisions related to a town incorporation feasibility study;
- ▶ amends language related to a town incorporation petition;
- ▶ requires a county legislative body to hold a public hearing on a feasibility study;
- ▶ enacts provisions related to an incorporation of a town election;
- ▶ enacts provisions related to a town form of government and election of town

officers;



- 26 ▶ enacts provisions requiring notice of a town incorporation to the lieutenant
- 27 governor;
- 28 ▶ enacts provisions related to the effective date of a town incorporation;
- 29 ▶ amends language related to the duties of a planning commission of a township;
- 30 ▶ amends the definition of "ballot proposition"; and
- 31 ▶ makes technical corrections.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 **AMENDS:**

- 38 **10-2-101**, as last amended by Laws of Utah 2008, Chapter 360
- 39 **10-2-102**, as repealed and reenacted by Laws of Utah 1997, Chapter 389
- 40 **10-2-104**, as last amended by Laws of Utah 2003, Chapter 129
- 41 **10-2-105**, as last amended by Laws of Utah 1998, Chapter 13
- 42 **10-2-106**, as last amended by Laws of Utah 2007, Chapter 329
- 43 **10-2-108**, as last amended by Laws of Utah 2010, Chapter 90
- 44 **10-2-109**, as last amended by Laws of Utah 2010, Chapter 378
- 45 **10-2-111**, as last amended by Laws of Utah 2009, Chapter 388
- 46 **10-2-116**, as last amended by Laws of Utah 2009, Chapter 388
- 47 **10-2-125**, as last amended by Laws of Utah 2010, Chapters 90, 122 and last amended
- 48 by Coordination Clause, Laws of Utah 2010, Chapter 90
- 49 **17-27a-302**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 50 **20A-1-102**, as last amended by Laws of Utah 2011, Chapters 17, 40, 310, and 335
- 51 **20A-1-203**, as last amended by Laws of Utah 2011, Chapter 371
- 52 **20A-1-204**, as last amended by Laws of Utah 2008, Chapters 16 and 382

53 **ENACTS:**

- 54 **10-2-126**, Utah Code Annotated 1953
- 55 **10-2-127**, Utah Code Annotated 1953
- 56 **10-2-128**, Utah Code Annotated 1953

57 10-2-129, Utah Code Annotated 1953

58 REPEALS AND REENACTS:

59 10-2-124, as enacted by Laws of Utah 1997, Chapter 389



61 *Be it enacted by the Legislature of the state of Utah:*

62 Section 1. Section 10-2-101 is amended to read:

63 **10-2-101. Definitions.**

64 (1) As used in this part:

65 ~~[(a) "Commission" means a boundary commission established under Section 10-2-409~~
66 ~~for the county in which the property that is proposed to be incorporated is located.]~~

67 ~~[(b)]~~ (a) "Feasibility consultant" means a person or firm:

68 (i) with expertise in the processes and economics of local government~~[-]; and~~

69 (ii) who is independent of and not affiliated with a county or sponsor of a petition to
70 incorporate.

71 ~~[(c)]~~ (b) "Private," with respect to real property, means ~~[not owned by the United States~~
72 ~~or any agency of the federal government, the state, a county, a municipality, a school district, a~~
73 ~~local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a~~
74 ~~special service district under Title 17D, Chapter 1, Special Service District Act, or any other~~
75 ~~political subdivision or governmental entity of the state]~~ taxable property.

76 (2) For purposes of this part:

77 (a) the owner of real property shall be the record title owner according to the records of
78 the county recorder on the date of the filing of the request or petition; and

79 (b) the value of private real property shall be determined according to the last
80 assessment roll for county taxes before the filing of the request or petition.

81 (3) For purposes of each provision of this part that requires the owners of private real
82 property covering a percentage or fraction of the total private land area within an area to sign a
83 request or petition:

84 (a) a parcel of real property may not be included in the calculation of the required
85 percentage or fraction unless the request or petition is signed by:

86 (i) except as provided in Subsection (3)(a)(ii), owners representing a majority
87 ownership interest in that parcel; or

88 (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number
89 of owners of that parcel;

90 (b) the signature of a person signing a request or petition in a representative capacity on
91 behalf of an owner is invalid unless:

92 (i) the person's representative capacity and the name of the owner the person represents
93 are indicated on the request or petition with the person's signature; and

94 (ii) the person provides documentation accompanying the request or petition that
95 substantiates the person's representative capacity; and

96 (c) subject to Subsection (3)(b), a duly appointed personal representative may sign a
97 request or petition on behalf of a deceased owner.

98 Section 2. Section 10-2-102 is amended to read:

99 **10-2-102. Incorporation of a contiguous area -- Governing provisions of city or**
100 **town incorporation.**

101 (1) A contiguous area of a county not within a municipality may incorporate as a
102 municipality as provided in this part.

103 (2) (a) Incorporation as a city is governed by Sections 10-2-103 through 10-2-124.

104 (b) Incorporation as a town is governed by ~~[Section]~~ Sections 10-2-125 through
105 10-2-129.

106 Section 3. Section 10-2-104 is amended to read:

107 **10-2-104. Notice to owner of property -- Exclusion of property from proposed**
108 **boundaries.**

109 (1) As used in this section:

110 (a) "Assessed value" with respect to property means the value at which the property
111 would be assessed without regard to a valuation for agricultural use under Section 59-2-503.

112 (b) "Owner" means a person having an interest in real property, including an affiliate,
113 subsidiary, or parent company.

114 (c) "Urban" means an area with a residential density of greater than one unit per acre.

115 ~~[(+)]~~ (2) Within seven calendar days of the date on which a request under Section
116 10-2-103 is filed, the county clerk shall ~~[notify]~~ send written notice of the proposed
117 incorporation to each record owner of real property owning more than:

118 (a) 1% of the assessed value of all property in the proposed incorporation

119 boundaries[-]; or

120 (b) 10% of the total private land area within the proposed incorporation boundaries.

121 ~~[(2)(a)] (3) [A property owner within the boundaries of a proposed municipality,~~

122 ~~owning] If an owner owns, controls, or manages~~ more than 1% of the assessed value of all

123 property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more

124 of the total private land area in the proposed incorporation boundaries, the owner may exclude

125 all or part of the property ~~[owner's property]~~ owned, controlled, or managed by the owner from

126 the proposed boundaries by filing a Notice of Exclusion with the county legislative body within

127 ~~[+0]~~ 15 calendar days of receiving the clerk's notice under Subsection ~~[(+)]~~ (2).

128 ~~[(b)]~~ (4) The county legislative body shall exclude the property identified by an owner

129 in the Notice of Exclusion from the proposed incorporation boundaries ~~[only if the property:]~~

130 unless the county legislative body finds by clear and convincing evidence in the record that:

131 (a) the exclusion will leave an unincorporated island within the proposed municipality;

132 and

133 (b) the property to be excluded:

134 (i) is urban; and

135 ~~[(i) is currently nonurban;]~~

136 (ii) [does not or will not require municipal provision of] currently receives from the

137 county a majority of municipal-type services including:

138 (A) culinary or irrigation water;

139 (B) sewage collection or treatment;

140 (C) storm drainage or flood control;

141 (D) recreational facilities or parks;

142 (E) electric generation or transportation;

143 (F) construction or maintenance of local streets and roads;

144 (G) curb and gutter or sidewalk maintenance;

145 (H) garbage and refuse collection; and

146 (I) street lighting~~[-and]~~.

147 ~~[(iii) exclusion will not leave an unincorporated island within the proposed~~

148 ~~municipality.]~~

149 ~~[(3)]~~ (5) This section applies only to counties of the first or second class.

150 ~~[(4)]~~ (6) If the county legislative body excludes property from the proposed boundaries
151 under Subsection ~~[(2)(b)]~~ (4), the county legislative body shall, within five days of the
152 exclusion, send written notice of ~~[its action]~~ the exclusion to the contact sponsor.

153 Section 4. Section **10-2-105** is amended to read:

154 **10-2-105. Processing a request for incorporation -- Certification or rejection by**
155 **county clerk -- Processing priority -- Limitations -- Township planning commission**
156 **recommendation.**

157 (1) Within 45 days of the filing of a request under Section 10-2-103, the county clerk
158 shall:

159 (a) with the assistance of other county officers from whom the clerk requests
160 assistance, determine whether the request complies with Section 10-2-103; and

161 (b) (i) if the clerk determines that the request complies with Section 10-2-103:

162 (A) certify the request and deliver the certified request to the county legislative body;
163 and

164 (B) mail or deliver written notification of the certification to:

165 (I) the contact sponsor; and

166 (II) the chair of the planning commission of each township in which any part of the
167 area proposed for incorporation is located; or

168 (ii) if the clerk determines that the request fails to comply with ~~[any of those]~~ Section
169 10-2-103 requirements, reject the request and notify the contact sponsor in writing of the
170 rejection and the reasons for the rejection.

171 (2) The county clerk shall certify or reject requests under Subsection (1) in the order in
172 which they are filed.

173 (3) (a) (i) If the county clerk rejects a request under Subsection (1)(b)(ii), the request
174 may be amended to correct the deficiencies for which it was rejected and then refiled with the
175 county clerk.

176 (ii) A signature on a request under Section 10-2-103 may be used toward fulfilling the
177 signature requirement of Subsection 10-2-103(2)(a) for the request as modified under
178 Subsection (3)(a)(i).

179 (b) If a request is amended and refiled under Subsection (3)(a) after having been
180 rejected by the county clerk under Subsection (1)(b)(ii), it shall be considered as a newly filed

181 request, and its processing priority is determined by the date on which it is refiled.

182 ~~[(4) (a) A township planning commission may recommend to the legislative body of~~
 183 ~~the county in which the township is located that, for purposes of Subsection~~
 184 ~~10-2-106(4)(a)(xiii), the county legislative body support or oppose a proposed incorporation~~
 185 ~~under this part of an area located within the township.]~~

186 ~~[(b) (i) Except as provided in Subsection (4)(b)(ii), the township planning commission~~
 187 ~~shall communicate each recommendation under Subsection (4)(a) in writing to the county~~
 188 ~~legislative body within 60 days of the county clerk's certification under Subsection (1)(b)(i).]~~

189 ~~[(ii) Notwithstanding Subsection (4)(b)(i), if the county clerk's certification under~~
 190 ~~Subsection (1)(b)(i) is before July 17, 1997, the township planning commission shall~~
 191 ~~communicate its recommendation under Subsection (4)(a) in writing to the county legislative~~
 192 ~~body within 60 days of the county clerk's certification under Subsection (1)(b)(i) or August 31,~~
 193 ~~1997, whichever is later, but no later than:]~~

194 ~~[(A) 75 days after the county legislative body has engaged the feasibility consultant~~
 195 ~~under Subsection 10-2-106(1); or]~~

196 ~~[(B) the completion of the feasibility study.]~~

197 ~~[(iii) At the time the recommendation under Subsection (4)(b)(i) is delivered to the~~
 198 ~~county legislative body, the township planning commission shall mail or deliver a copy of the~~
 199 ~~recommendation to the contact sponsor.]~~

200 Section 5. Section **10-2-106** is amended to read:

201 **10-2-106. Feasibility study -- Feasibility study consultant.**

202 (1) Within 60 days of receipt of a certified request under Subsection 10-2-105(1)(b)(i),
 203 the county legislative body shall engage the feasibility consultant chosen under Subsection (2)
 204 to conduct a feasibility study.

205 ~~[(2) The feasibility consultant shall be chosen by a majority vote of a selection~~
 206 ~~committee consisting of:]~~

207 ~~[(a) a person designated by the county legislative body;]~~

208 ~~[(b) a person designated by the sponsors of the request for a feasibility study; and]~~

209 ~~[(c) a person designated by the governor.]~~

210 (2) The feasibility consultant shall be chosen:

211 (a) (i) by the contact sponsor of the incorporation petition with the consent of the

212 county; or

213 (ii) by the county if the designated sponsors state, in writing, that the contact sponsor
214 defers selection of the feasibility consultant to the county.

215 (3) The county legislative body shall require the feasibility consultant to:

216 (a) complete the feasibility study and submit the written results to the county legislative
217 body and the contact sponsor no later than 90 days after the feasibility consultant is engaged to
218 conduct the study;

219 (b) submit with the full written results of the feasibility study a summary of the results
220 no longer than one page in length; and

221 (c) attend the public hearings under Subsection 10-2-108(1) and present the feasibility
222 study results and respond to questions from the public at those hearings.

223 ~~[(4)(a) The feasibility study shall consider:]~~

224 ~~[(i) the population and population density within the area proposed for incorporation~~
225 ~~and the surrounding area;]~~

226 ~~[(ii) the history, geography, geology, and topography of and natural boundaries within~~
227 ~~the area proposed to be incorporated and the surrounding area;]~~

228 ~~[(iii) whether the proposed boundaries eliminate or create an unincorporated island or~~
229 ~~peninsula;]~~

230 ~~[(iv) whether the proposed incorporation will hinder or prevent a future and more~~
231 ~~logical and beneficial incorporation or a future logical and beneficial annexation;]~~

232 ~~[(v) the fiscal impact on unincorporated areas, other municipalities, local districts,~~
233 ~~special service districts, and other governmental entities in the county;]~~

234 ~~[(vi) current and five-year projections of demographics and economic base in the~~
235 ~~proposed city and surrounding area, including household size and income, commercial and~~
236 ~~industrial development, and public facilities;]~~

237 ~~[(vii) projected growth in the proposed city and in adjacent areas during the next five~~
238 ~~years;]~~

239 ~~[(viii) subject to Subsection (4)(c), the present and five-year projections of the cost,~~
240 ~~including overhead, of governmental services in the proposed city;]~~

241 ~~[(ix) the present and five-year projected revenue for the proposed city;]~~

242 ~~[(x) the projected impact the incorporation will have over the following five years on~~

243 the amount of taxes that property owners within the proposed city and in the remaining
244 unincorporated county will pay;]

245 [(xi) past expansion in terms of population and construction in the proposed city and
246 the surrounding area;]

247 [(xii) the extension of the boundaries of other nearby municipalities during the past 10
248 years, the willingness of those municipalities to annex the area proposed for incorporation, and
249 the probability that those municipalities would annex territory within the area proposed for
250 incorporation within the next five years except for the incorporation; and]

251 [(xiii) whether the legislative body of the county in which the area proposed to be
252 incorporated favors the incorporation proposal.]

253 [(b) For purposes of Subsection (4)(a)(ix), the feasibility consultant shall assume ad
254 valorem property tax rates on residential property within the proposed city at the same level at
255 which they would have been without the incorporation.]

256 [(c) For purposes of Subsection (4)(a)(viii):]

257 [(i) the feasibility consultant shall assume a level and quality of governmental services
258 to be provided to the proposed city in the future that fairly and reasonably approximate the
259 level and quality of governmental services being provided to the proposed city at the time of
260 the feasibility study;]

261 [(ii) in determining the present cost of a governmental service, the feasibility
262 consultant shall consider:]

263 [(A) the amount it would cost the proposed city itself to provide the service after
264 incorporation;]

265 [(B) if the county is currently providing the service to the proposed city, the county's
266 cost of providing the service; and]

267 [(C) if the county is not currently providing the service to the proposed city, the
268 amount the proposed city can reasonably expect to pay for the service under a contract for the
269 service; and]

270 [(iii) the five-year projected cost of a governmental service shall be based on the
271 amount calculated under Subsection (4)(c)(ii), taking into account inflation and anticipated
272 growth.]

273 [(5) If the results of the feasibility study or revised feasibility study do not meet the

274 requirements of Subsection 10-2-109(3), the feasibility consultant shall, as part of the
275 feasibility study or revised feasibility study and if requested by the sponsors of the request,
276 make recommendations as to how the boundaries of the proposed city may be altered so that
277 the requirements of Subsection 10-2-109(3) may be met.]

278 (4) (a) The feasibility study shall consider:

279 (i) population and population density within the area proposed for incorporation and
280 the surrounding area;

281 (ii) current and five-year projections of demographics and economic base in the
282 proposed city and surrounding area, including household size and income, commercial and
283 industrial development, and public facilities;

284 (iii) projected growth in the proposed city and in adjacent areas during the next five
285 years;

286 (iv) subject to Subsection (4)(b), the present and five-year projections of the cost,
287 including overhead, of governmental services in the proposed city, including:

288 (A) culinary water;

289 (B) secondary water;

290 (C) sewer;

291 (D) law enforcement;

292 (E) fire protection

293 (F) roads and public works;

294 (G) garbage

295 (H) weeds; and

296 (I) government offices;

297 (v) assuming the same tax categories and tax rates as currently imposed by the county
298 and all other current service providers, the present and five-year projected revenue for the
299 proposed city;

300 (vi) a projection of any new taxes per household that may be levied within the
301 incorporated area within five years of incorporation; and

302 (vii) the fiscal impact on unincorporated areas, other municipalities, local districts,
303 special service districts, and other governmental entities in the county.

304 (b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a

305 level and quality of governmental services to be provided to the proposed city in the future that
306 fairly and reasonably approximate the level and quality of governmental services being
307 provided to the proposed city at the time of the feasibility study.

308 (ii) In determining the present cost of a governmental service, the feasibility consultant
309 shall consider:

310 (A) the amount it would cost the proposed city to provide governmental service for the
311 first five years after incorporation; and

312 (B) the county's present and five-year projected cost of providing governmental
313 service.

314 (iii) The costs calculated under Subsection (4)(a)(iv), shall take into account inflation
315 and anticipated growth.

316 (5) If the five year projected revenues under Subsection (4)(a)(v) exceed the five year
317 projected costs under Subsection (4)(a)(iv) by more than 5%, the feasibility consultant shall
318 project and report the expected annual revenue surplus to the contact sponsor and the lieutenant
319 governor.

320 (6) If the results of the feasibility study or revised feasibility study do not meet the
321 requirements of Subsection 10-2-109(3), the feasibility consultant shall, as part of the
322 feasibility study or revised feasibility study and if requested by the sponsors of the request,
323 make recommendations as to how the boundaries of the proposed city may be altered so that
324 the requirements of Subsection 10-2-109(3) may be met.

325 ~~[(6)]~~ (7) (a) For purposes of this Subsection [(6)] (7), "pending" means that the process
326 to incorporate an unincorporated area has been initiated by the filing of a request for feasibility
327 study under Section 10-2-103 but that, as of [the date this Subsection (6) becomes effective]
328 May 8, 2012, a petition under Section 10-2-109 has not yet been filed.

329 (b) The amendments to Subsection (4) that become effective upon the effective date of
330 this Subsection [(6)] (7):

331 (i) apply to each pending proceeding proposing the incorporation of an unincorporated
332 area; and

333 (ii) do not apply to a municipal incorporation proceeding under this part in which a
334 petition under Section 10-2-109 has been filed.

335 (c) (i) If, in a pending incorporation proceeding, the feasibility consultant has, as of

336 [~~the effective date of this Subsection (6)~~] May 8, 2012, already completed the feasibility study,
337 the county legislative body shall, within 20 days after the effective date of this Subsection [~~(6)~~]
338 (7) and except as provided in Subsection [~~(6)~~] (7)(c)(iii), engage the feasibility consultant to
339 revise the feasibility study to take into account the amendments to Subsection (4) that became
340 effective on the effective date of this Subsection [~~(6)~~] (7).

341 (ii) Except as provided in Subsection [~~(6)~~] (7)(c)(iii), the county legislative body shall
342 require the feasibility consultant to complete the revised feasibility study under Subsection
343 [~~(6)~~] (7)(c)(i) within 20 days after being engaged to do so.

344 (iii) Notwithstanding Subsections [~~(6)~~] (7)(c)(i) and (ii), a county legislative body is
345 not required to engage the feasibility consultant to revise the feasibility study if, within 15 days
346 after the effective date of this Subsection [~~(6)~~] (7), the request sponsors file with the county
347 clerk a written withdrawal of the request signed by all the request sponsors.

348 (d) All provisions of this part that set forth the incorporation process following the
349 completion of a feasibility study shall apply with equal force following the completion of a
350 revised feasibility study under this Subsection [~~(6)~~] (7), except that, if a petition under Section
351 10-2-109 has already been filed based on the feasibility study that is revised under this
352 Subsection [~~(6)~~] (7):

353 (i) the notice required by Section 10-2-108 for the revised feasibility study shall
354 include a statement informing signers of the petition of their right to withdraw their signatures
355 from the petition and of the process and deadline for withdrawing a signature from the petition;

356 (ii) a signer of the petition may withdraw the signer's signature by filing with the
357 county clerk a written withdrawal within 30 days after the final notice under Subsection
358 10-2-108[~~(2)~~](3) has been given with respect to the revised feasibility study; and

359 (iii) unless withdrawn, a signature on the petition may be used toward fulfilling the
360 signature requirements under Subsection 10-2-109(2)(a) for a petition based on the revised
361 feasibility study.

362 Section 6. Section **10-2-108** is amended to read:

363 **10-2-108. Public hearings on feasibility study results -- Notice of hearings.**

364 (1) If the results of the feasibility study or supplemental feasibility study meet the
365 requirements of Subsection 10-2-109(3), the county legislative body shall, at its next regular
366 meeting after receipt of the results of the feasibility study or supplemental feasibility study,

367 schedule at least two public hearings to be held:

- 368 (a) within the following 60 days;
 - 369 (b) at least seven days apart;
 - 370 (c) in geographically diverse locations within the proposed city; and
 - 371 (d) for the purpose of allowing:
 - 372 (i) the feasibility consultant to present the results of the study; and
 - 373 (ii) the public to become informed about the feasibility study results and to ask
- 374 questions about those results of the feasibility consultant.

375 (2) At a public hearing described in Subsection (1), the county legislative body shall:

- 376 (a) provide a map or plat of the boundary of the proposed city;
- 377 (b) provide a copy of the feasibility study for public review; and
- 378 (c) allow the public to express its views about the proposed incorporation, including its
- 379 view about the proposed boundary.

380 ~~[(2)]~~ (3) (a) (i) The county clerk shall publish notice of the public hearings required
381 under Subsection (1):

- 382 (A) at least once a week for three successive weeks in a newspaper of general
- 383 circulation within the proposed city; and
- 384 (B) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks.
- 385 (ii) The last publication of notice required under Subsection ~~[(2)]~~ (3)(a)(i)(A) shall be
- 386 at least three days before the first public hearing required under Subsection (1).

387 (b) (i) If, under Subsection ~~[(2)]~~ (3)(a)(i)(A), there is no newspaper of general
388 circulation within the proposed city, the county clerk shall post at least one notice of the
389 hearings per 1,000 population in conspicuous places within the proposed city that are most
390 likely to give notice of the hearings to the residents of the proposed city.

391 (ii) The clerk shall post the notices under Subsection ~~[(2)]~~ (3)(b)(i) at least seven days
392 before the first hearing under Subsection (1).

393 (c) The notice under Subsections ~~[(2)]~~ (3)(a) and (b) shall include the feasibility study
394 summary under Subsection 10-2-106(3)(b) and shall indicate that a full copy of the study is
395 available for inspection and copying at the office of the county clerk.

396 Section 7. Section **10-2-109** is amended to read:

397 **10-2-109. Incorporation petition -- Requirements and form.**

398 (1) At any time within [~~18 months~~] one year of the completion of the public hearings
399 required under Subsection 10-2-108(1), a petition for incorporation of the area proposed to be
400 incorporated as a city may be filed in the office of the clerk of the county in which the area is
401 located.

402 (2) Each petition under Subsection (1) shall:

403 (a) be signed by [~~the owners of private real property that~~]:

404 [~~(i) is located within the area proposed to be incorporated;~~]

405 [~~(ii) covers at least 1/3 of the total private land area within the area; and~~]

406 [~~(iii) is equal in value to at least 1/3 of the value of all private real property within the~~
407 ~~area;~~]

408 (i) 10% of all registered voters within the area proposed to be incorporated as a city,
409 according to the official voter registration list maintained by the county on the date the petition
410 is filed; and

411 (ii) 10% of all registered voters within, subject to Subsection (5), 90% of the voting
412 precincts within the area proposed to be incorporated as a city, according to the official voter
413 registration list maintained by the county on the date the petition is filed;

414 (b) indicate the typed or printed name and current residence address of each owner
415 signing the petition;

416 (c) describe the area proposed to be incorporated as a city, as described in the
417 feasibility study request or modified request that meets the requirements of Subsection (3);

418 (d) state the proposed name for the proposed city;

419 (e) designate five signers of the petition as petition sponsors, one of whom shall be
420 designated as the contact sponsor, with the mailing address and telephone number of each;

421 (f) state that the signers of the petition appoint the sponsors, if the incorporation
422 measure passes, to represent the signers in the process of:

423 (i) selecting the number of commission or council members the new city will have; and

424 (ii) drawing district boundaries for the election of commission or council members, if
425 the voters decide to elect commission or council members by district;

426 (g) be accompanied by and circulated with an accurate plat or map, prepared by a
427 licensed surveyor, showing the boundaries of the proposed city; and

428 (h) substantially comply with and be circulated in the following form:

429 PETITION FOR INCORPORATION OF (insert the proposed name of the proposed
430 city)

431 To the Honorable County Legislative Body of (insert the name of the county in which
432 the proposed city is located) County, Utah:

433 We, the undersigned owners of real property within the area described in this petition,
434 respectfully petition the county legislative body to submit to the registered voters residing
435 within the area described in this petition, at [~~a special election held for that purpose~~] the next
436 regular general election, the question of whether the area should incorporate as a city. Each of
437 the undersigned affirms that each has personally signed this petition and is an owner of real
438 property within the described area, and that the current residence address of each is correctly
439 written after the signer's name. The area proposed to be incorporated as a city is described as
440 follows: (insert an accurate description of the area proposed to be incorporated).

441 (3) A petition for incorporation of a city under Subsection (1) may not be filed unless
442 the results of the feasibility study or supplemental feasibility study show that the average
443 annual amount of revenue under Subsection 10-2-106(4)(a)[~~(ix)~~](v) does not exceed the
444 average annual amount of cost under Subsection 10-2-106(4)(a)[~~(viii)~~](iv) by more than 5%.

445 (4) A signature on a request under Section 10-2-103 or a modified request under
446 Section 10-2-107 may be used toward fulfilling the signature requirement of Subsection (2)(a):

447 (a) if the request under Section 10-2-103 or modified request under Section 10-2-107
448 notified the signer in conspicuous language that the signature, unless withdrawn, would also be
449 used for purposes of a petition for incorporation under this section; and

450 (b) unless the signer files with the county clerk a written withdrawal of the signature
451 before the petition under this section is filed with the clerk.

452 (5) A signature gathered from a voting precinct that is not located entirely within the
453 boundaries of the proposed city does not qualify as a signature to meet the requirement
454 described in Subsection (2)(a)(ii).

455 Section 8. Section **10-2-111** is amended to read:

456 **10-2-111. Incorporation election.**

457 (1) (a) At the next [~~special election~~] regular general election date under Section
458 [~~20A-1-204~~] 20A-1-201 more than [~~45~~] 60 days after the county legislative body's receipt of
459 the certified petition or certified modified petition under Subsection 10-2-110(1)(b)(i), the

460 county legislative body shall hold an election on the proposed incorporation.

461 (b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102,
462 within the boundaries of the proposed city, the person may not vote on the proposed
463 incorporation.

464 (2) (a) The county clerk shall publish notice of the election:

465 (i) in a newspaper of general circulation within the area proposed to be incorporated at
466 least once a week for three successive weeks; and

467 (ii) in accordance with Section 45-1-101 for three weeks.

468 (b) The notice required by Subsection (2)(a) shall contain:

469 (i) a statement of the contents of the petition;

470 (ii) a description of the area proposed to be incorporated as a city;

471 (iii) a statement of the date and time of the election and the location of polling places;

472 and

473 (iv) the feasibility study summary under Subsection 10-2-106(3)(b) and a statement
474 that a full copy of the study is available for inspection and copying at the office of the county
475 clerk.

476 (c) The last publication of notice required under Subsection (2)(a) shall occur at least
477 one day but no more than seven days before the election.

478 (d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general
479 circulation within the proposed city, the county clerk shall post at least one notice of the
480 election per 1,000 population in conspicuous places within the proposed city that are most
481 likely to give notice of the election to the voters of the proposed city.

482 (ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before
483 the election under Subsection (1).

484 (3) If a majority of those casting votes within the area boundaries of the proposed city
485 vote to incorporate as a city, the area shall incorporate.

486 Section 9. Section **10-2-116** is amended to read:

487 **10-2-116. Election of officers of new city.**

488 (1) For the election of city officers, the county legislative body shall:

489 (a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary
490 election; and

491 (b) hold a final election.

492 (2) Each election under Subsection (1) shall be:

493 (a) appropriate to the form of government chosen by the voters at the incorporation
494 election;

495 (b) consistent with the voters' decision about whether to elect commission or council
496 members by district and, if applicable, consistent with the boundaries of those districts as
497 determined by the petition sponsors; and

498 (c) consistent with the sponsors' determination of the number of commission or council
499 members to be elected and the length of their initial term.

500 (3) (a) Subject to Subsection (3)(b) [~~and except as provided in Subsection (5)~~], the
501 primary election under Subsection (1)(a) shall be held at the earliest of the next:

502 (i) regular general election under Section 20A-1-201;

503 (ii) municipal primary election under Section 20A-9-404;

504 (iii) municipal general election under Section 20A-1-202; or

505 (iv) special election under Section 20A-1-204.

506 (b) Notwithstanding Subsection (3)(a), the primary election under Subsection (1)(a)
507 may not be held until 75 days after the incorporation election under Section 10-2-111.

508 (4) [~~Except as provided in Subsection (5), the~~] The final election under Subsection
509 (1)(b) shall be held at the next special election date under Section 20A-1-204:

510 (a) after the primary election; or

511 (b) if there is no primary election, more than 75 days after the incorporation election
512 under Section 10-2-111.

513 [~~(5) Notwithstanding Subsections (3) and (4), the county legislative body may hold the~~
514 ~~primary and final elections required under Subsection (1) on the dates provided for the next~~
515 ~~municipal primary election under Section 20A-9-404 and the next municipal general election~~
516 ~~under Section 20A-1-202, respectively, after the incorporation election, if:]~~

517 [~~(a) with the results under Subsection 10-2-114(1)(d), the petition sponsors submit to~~
518 ~~the county legislative body a written request to that effect; and]~~

519 [~~(b) the incorporation election under Section 10-2-111 took place in February or May~~
520 ~~of an odd-numbered year.]~~

521 [~~(6)~~] (5) (a) (i) The county clerk shall publish notice of an election under this section:

522 (A) at least once a week for two successive weeks in a newspaper of general circulation
523 within the future city; and

524 (B) in accordance with Section 45-1-101 for two weeks.

525 (ii) The later notice under Subsection [~~(6)~~] (5)(a)(i) shall be at least one day but no
526 more than seven days before the election.

527 (b) (i) In accordance with Subsection [~~(6)~~] (5)(a)(i)(A), if there is no newspaper of
528 general circulation within the future city, the county clerk shall post at least one notice of the
529 election per 1,000 population in conspicuous places within the future city that are most likely
530 to give notice of the election to the voters.

531 (ii) The county clerk shall post the notices under Subsection [~~(6)~~] (5)(b)(i) at least
532 seven days before each election under Subsection (1).

533 [~~(7)~~] (6) Until the city is incorporated, the county clerk is the election officer for all
534 purposes in an election of officers of the city approved at an incorporation election.

535 Section 10. Section **10-2-124** is repealed and reenacted to read:

536 **10-2-124. Incorporation petition before May 8, 2012.**

537 (1) A party with petition in process as of January 1, 2012, and not yet filed for final
538 certification with the county clerk in accordance with Section 10-2-110 as of May 8, 2012,
539 shall file a request for a feasibility study under Section 10-2-103 and comply with the
540 provisions of this chapter as enacted on May 8, 2012.

541 (2) A party described in Subsection (1) may use a signature on a petition in process as
542 of May 8, 2012, to fulfill the requirements of this chapter enacted on May 8, 2012.

543 Section 11. Section **10-2-125** is amended to read:

544 **10-2-125. Incorporation of a town -- Petition.**

545 (1) As used in this section:

546 (a) "Assessed value," with respect to agricultural land, means the value at which the
547 land would be assessed without regard to a valuation for agricultural use under Section
548 59-2-503.

549 (b) "Financial feasibility study" means a study [~~to determine:~~] described in Subsection
550 (8).

551 [~~(i) the projected revenues for the proposed town during the first three years after~~
552 ~~incorporation; and]~~

553 ~~[(ii) the projected costs, including overhead, that the proposed town will incur in~~
 554 ~~providing governmental services during the first three years after incorporation.]~~

555 (c) "Feasibility consultant" means a person or firm:

556 (i) with expertise in the processes and economics of local government; and

557 (ii) who is independent of and not affiliated with a county or sponsor of a petition to
 558 incorporate.

559 ~~[(e)]~~ (d) "Municipal service" means a publicly provided service that is not provided on
 560 a countywide basis.

561 ~~[(d)]~~ (e) "Nonurban" means having a residential density of less than one unit per acre.

562 (2) (a) (i) A contiguous area of a county not within a municipality, with a population of
 563 at least 100 but less than 1,000, may incorporate as a town as provided in this section.

564 (ii) An area within a county of the first class is not contiguous for purposes of
 565 Subsection (2)(a)(i) if:

566 (A) the area includes a strip of land that connects geographically separate areas; and

567 (B) the distance between the geographically separate areas is greater than the average
 568 width of the strip of land connecting the geographically separate areas.

569 (b) The population figure under Subsection (2)(a) shall be determined:

570 (i) as of the date the incorporation petition is filed; and

571 (ii) by the Utah Population Estimates Committee within 20 days after the county clerk's
 572 certification under Subsection (6) of a petition filed under Subsection (4).

573 (3) (a) The process to incorporate an area as a town is initiated by filing a ~~[request for a~~
 574 ~~public hearing with the clerk of the county in which the area is located]~~ petition to incorporate
 575 the area as a town with the clerk of the county in which the area is located.

576 ~~[(b) Each request for a public hearing under Subsection (3)(a) shall:]~~

577 ~~[(i) be signed by the owners of at least five separate parcels of private real property,~~
 578 ~~each owned by a different owner, located within the area proposed to be incorporated; and]~~

579 ~~[(ii) be accompanied by an accurate map or plat depicting the boundary of the proposed~~
 580 ~~town.]~~

581 ~~[(c) Within 10 days after a request for a public hearing is filed under Subsection (3)(a),~~
 582 ~~the county clerk shall, with the assistance of other county officers from whom the clerk~~
 583 ~~requests assistance, determine whether the petition complies with the requirements of~~

584 Subsection (3)(b):]

585 ~~[(d) If the clerk determines that a request under Subsection (3)(a) fails to comply with~~
586 ~~the requirements of Subsection (3)(b), the clerk shall reject the request and deliver written~~
587 ~~notice of the rejection to the signers of the request.]~~

588 ~~[(e) (i) If the clerk determines that a request under Subsection (3)(a) complies with the~~
589 ~~requirements of Subsection (3)(b), the clerk shall:]~~

590 ~~[(A) schedule and arrange for a public hearing to be held:]~~

591 ~~[(I) (Aa) at a public facility located within the boundary of the proposed town; or]~~

592 ~~[(Bb) if there is no public facility within the boundary of the proposed town, at another~~
593 ~~nearby public facility or at the county seat; and]~~

594 ~~[(H) within 20 days after the clerk provides the last notice required under Subsection~~
595 ~~(3)(e)(i)(B); and]~~

596 ~~[(B) no later than 10 days after the clerk determines that a request complies with the~~
597 ~~requirements of Subsection (3)(b), give notice of the public hearing on the proposed~~
598 ~~incorporation by:]~~

599 ~~[(I) posting notice of the public hearing on the county's Internet website, if the county~~
600 ~~has an Internet website;]~~

601 ~~[(H) (Aa) publishing notice of the public hearing at least once a week for two~~
602 ~~consecutive weeks in a newspaper of general circulation within the proposed town; or]~~

603 ~~[(Bb) if there is no newspaper of general circulation within the proposed town, posting~~
604 ~~notice of the public hearing in at least five conspicuous public places within the proposed~~
605 ~~town; and]~~

606 ~~[(H) publishing notice of the public hearing on the Utah Public Notice Website created~~
607 ~~in Section 63F-1-701.]~~

608 ~~[(ii) Each public hearing under Subsection (3)(e)(i)(A) shall be conducted by the chair~~
609 ~~of the county commission or council, or the chair's designee, to:]~~

610 ~~[(A) introduce the concept of the proposed incorporation to the public;]~~

611 ~~[(B) allow the public to review the map or plat of the boundary of the proposed town;]~~

612 ~~[(C) allow the public to ask questions and become informed about the proposed~~
613 ~~incorporation; and]~~

614 ~~[(D) allow the public to express their views about the proposed incorporation;~~

615 including their views about the boundary of the area proposed to be incorporated.]

616 [~~(4)~~(a) At any time within three months after the public hearing under Subsection
617 ~~(3)~~(c), a petition to incorporate the area as a town may be filed with the clerk of the county in
618 which the area is located.]

619 (b) [~~Each~~] A petition under Subsection [~~(4)~~] (3)(a) shall:

620 (i) be signed by:

621 (A) the owners of private real property that:

622 (I) is located within the area proposed to be incorporated; and

623 [~~(II)~~ covers a majority of the total private land area within the area;]

624 [~~(III)~~] (II) is equal in assessed value to more than [~~1/2~~] 1/5 of the assessed value of all
625 private real property within the area; and

626 [~~(IV)~~ consists, in number of parcels, of at least 1/3 of the number of all parcels of
627 private real property within the area proposed to be incorporated; and]

628 (B) [~~a majority~~] 1/5 of all registered voters within the area proposed to be incorporated
629 as a town, according to the official voter registration list maintained by the county on the date
630 the petition is filed;

631 (ii) designate as sponsors at least five of the property owners who have signed the
632 petition, one of whom shall be designated as the contact sponsor, with the mailing address of
633 each owner signing as a sponsor;

634 (iii) be accompanied by and circulated with an accurate map or plat, prepared by a
635 licensed surveyor, showing a legal description of the boundary of the proposed town; and

636 (iv) substantially comply with and be circulated in the following form:

637 PETITION FOR INCORPORATION OF (insert the proposed name of the proposed
638 town)

639 To the Honorable County Legislative Body of (insert the name of the county in which
640 the proposed town is located) County, Utah:

641 We, the undersigned owners of real property and registered voters within the area
642 described in this petition, respectfully petition the county legislative body [~~for the area~~
643 ~~described in this petition to be incorporated~~] to submit to the registered voters residing within
644 the area described in this petition, at the next regular general election, the question of whether
645 the area should incorporate as a town. Each of the undersigned affirms that each has personally

646 signed this petition and is an owner of real property or a registered voter residing within the
647 described area, and that the current residence address of each is correctly written after the
648 signer's name. The area proposed to be incorporated as a town is described as follows: (insert
649 an accurate description of the area proposed to be incorporated).

650 (c) A petition under this Subsection [~~(4)~~] (3) may not describe an area that includes
651 some or all of an area proposed for annexation in an annexation petition under Section
652 10-2-403 that:

- 653 (i) was filed before the filing of the petition; and
- 654 (ii) is still pending on the date the petition is filed.

655 (d) A petition may not be filed under this section if the private real property owned by
656 the petition sponsors, designated under Subsection [~~(4)~~] (3)(b)(ii), cumulatively exceeds 40%
657 of the total private land area within the area proposed to be incorporated as a town.

658 (e) A signer of a petition under this Subsection [~~(4)~~] (3) may withdraw or, after
659 withdrawn, reinstate the signer's signature on the petition:

- 660 (i) at any time until the county clerk certifies the petition under Subsection [~~(6)~~] (5);
- 661 and

- 662 (ii) by filing a signed, written withdrawal or reinstatement with the county clerk.

663 [~~(5)~~] (4) (a) If a petition is filed under Subsection [~~(4)~~] (3)(a) proposing to incorporate
664 as a town an area located within a county of the first class, the county clerk shall deliver written
665 notice of the proposed incorporation:

666 (i) to each owner of private real property owning more than 1% of the assessed value
667 of all private real property within the area proposed to be incorporated as a town; and

668 (ii) within seven calendar days after the date on which the petition is filed.

669 (b) A private real property owner described in Subsection [~~(5)~~] (4)(a)(i) may exclude
670 all or part of the owner's property from the area proposed to be incorporated as a town by filing
671 a notice of exclusion:

- 672 (i) with the county clerk; and
- 673 (ii) within 10 calendar days after receiving the clerk's notice under Subsection [~~(5)~~]

674 (4)(a).

675 (c) The county legislative body shall exclude from the area proposed to be incorporated
676 as a town the property identified in the notice of exclusion under Subsection [~~(5)~~] (4)(b) if:

677 (i) the property:
678 (A) is nonurban; and
679 (B) does not and will not require a municipal service; and
680 (ii) exclusion will not leave an unincorporated island within the proposed town.
681 (d) If the county legislative body excludes property from the area proposed to be
682 incorporated as a town, the county legislative body shall send written notice of the exclusion to
683 the contact sponsor within five days after the exclusion.

684 [~~(6)~~ ~~Within~~] (5) No later than 20 days after the filing of a petition under Subsection
685 [~~(4)~~] (3), the county clerk shall:

686 (a) with the assistance of other county officers from whom the clerk requests
687 assistance, determine whether the petition complies with the requirements of Subsection [~~(4)~~]
688 (3); and

689 (b) (i) if the clerk determines that the petition complies with those requirements:

690 (A) certify the petition and deliver the certified petition to the county legislative body;
691 and

692 (B) mail or deliver written notification of the certification to:

693 (I) the contact sponsor;

694 (II) if applicable, the chair of the planning commission of each township in which any
695 part of the area proposed for incorporation is located; and

696 (III) the Utah Population Estimates Committee; or

697 (ii) if the clerk determines that the petition fails to comply with any of those
698 requirements, reject the petition and notify the contact sponsor in writing of the rejection and
699 the reasons for the rejection.

700 [~~(7)~~] (6) (a) (i) A petition that is rejected under Subsection [~~(6)~~] (5)(b)(ii) may be
701 amended to correct a deficiency for which it was rejected and then refiled with the county
702 clerk.

703 (ii) A valid signature on a petition filed under Subsection [~~(4)~~] (3)(a) may be used
704 toward fulfilling the signature requirement of Subsection [~~(4)~~] (3)(b) for the same petition that
705 is amended under Subsection [~~(7)~~] (6)(a)(i) and then refiled with the county clerk.

706 (b) If a petition is amended and refiled under Subsection [~~(7)~~] (6)(a)(i) after having
707 been rejected by the county clerk under Subsection [~~(6)~~] (5)(b)(ii):

708 (i) the amended petition shall be considered as a newly filed petition; and
709 (ii) the amended petition's processing priority is determined by the date on which it is
710 refiled.

711 (8) (a) (i) The legislative body of a county with which a petition is filed under
712 Subsection (4) [~~may, at its option and upon the petition being~~] and certified under Subsection
713 (6)[;] shall commission and pay for a financial feasibility study.

714 [~~(ii) If the county legislative body chooses to commission a financial feasibility study,~~
715 ~~the county legislative body shall:~~]

716 [~~(A) within 20 days after the incorporation petition is certified, select and engage a~~
717 ~~feasibility consultant; and]~~

718 (ii) The feasibility consultant shall be chosen:

719 (A) (I) by the contact sponsor of the incorporation petition, as described in Subsection
720 (3)(b)(ii), with the consent of the county; or

721 (II) by the county if the contact sponsor states, in writing, that the sponsor defers
722 selection of the feasibility consultant to the county.

723 [~~(B)~~] (iii) The county legislative body shall require the feasibility consultant to
724 complete the financial feasibility study and submit written results of the study to the county
725 legislative body no later than 30 days after the feasibility consultant is engaged to conduct the
726 financial feasibility study.

727 (b) The financial feasibility study shall consider the:

728 (i) population and population density within the area proposed for incorporation and
729 the surrounding area;

730 (ii) current and five-year projections of demographics and economic base in the
731 proposed town and surrounding area, including household size and income, commercial and
732 industrial development, and public facilities;

733 (iii) projected growth in the proposed town and in adjacent areas during the next five
734 years;

735 (iv) subject to Subsection (8)(c), the present and five-year projections of the cost,
736 including overhead, of governmental services in the proposed town, including:

737 (A) culinary water;

738 (B) secondary water;

- 739 (C) sewer;
740 (D) law enforcement;
741 (E) fire protection
742 (F) roads and public works;
743 (G) garbage
744 (H) weeds; and
745 (I) government offices;
746 (v) assuming the same tax categories and tax rates as currently imposed by the county
747 and all other current service providers, the present and five-year projected revenue for the
748 proposed town; and
749 (vi) a projection of any new taxes per household that may be levied within the
750 incorporated area within five years of incorporation.
751 (c) (i) For purposes of Subsection (8)(b)(iv), the feasibility consultant shall assume a
752 level and quality of governmental services to be provided to the proposed town in the future
753 that fairly and reasonably approximate the level and quality of governmental services being
754 provided to the proposed town at the time of the feasibility study.
755 (ii) In determining the present cost of a governmental service, the feasibility consultant
756 shall consider:
757 (A) the amount it would cost the proposed town to provide governmental service for
758 the first five years after incorporation; and
759 (B) the county's present and five-year projected cost of providing governmental
760 service.
761 (iii) The costs calculated under Subsection (8)(b)(iv), shall take into account inflation
762 and anticipated growth.
763 (d) If the five year projected revenues under Subsection (8)(b)(v) exceed the five year
764 projected costs under Subsection (8)(b)(iv) by more than 5%, the feasibility consultant shall
765 project and report the expected annual revenue surplus to the contact sponsor and the lieutenant
766 governor.
767 ~~[(b) If the county legislative body has commissioned a financial feasibility study under~~
768 ~~Subsection (8)(a)(i), the]~~
769 (e) The county legislative body shall approve a certified petition proposing the

770 incorporation of a town and hold ~~[an election for town officers,]~~ a public hearing as provided in
771 ~~[Subsection (9), if:]~~ Section 10-2-126.

772 ~~[(i) the county clerk has certified the petition under Subsection (6); and]~~

773 ~~[(ii) (A) the results of the financial feasibility study described in Subsection (8)(a)(i)
774 show that the average annual amount of revenues described in Subsection (1)(b)(i) does not
775 exceed the average annual amount of costs described in Subsection (1)(b)(ii) by more than
776 15%; or]~~

777 ~~[(B) the results of the financial feasibility study described in Subsection (8)(a)(i) show
778 that the average annual amount of costs described in Subsection (1)(b)(ii) does not exceed the
779 average annual amount of revenues described in Subsection (1)(b)(i) by more than 15%.]~~

780 ~~[(c) (i) If the results of the financial feasibility study described in Subsection (8)(a)(i)
781 show that the average annual amount of revenues described in Subsection (1)(b)(i) exceeds the
782 average annual amount of costs described in Subsection (1)(b)(ii) by more than 15%, the
783 county legislative body may:]~~

784 ~~[(A) deny the petition, in accordance with Subsection (8)(c)(iii), if the results of the
785 financial feasibility study show that the average annual amount of revenues described in
786 Subsection (1)(b)(i) exceeds the average annual amount of costs described in Subsection
787 (1)(b)(ii) by more than 15%; or]~~

788 ~~[(B) (I) with the consent of the petition sponsors:]~~

789 ~~[(Aa) impose conditions to prevent the average annual amount of revenues described in
790 Subsection (1)(b)(i) from exceeding the average annual amount of costs described in
791 Subsection (1)(b)(ii) by more than 15%; or]~~

792 ~~[(Bb) alter the boundaries of the area proposed to be incorporated as a town to
793 approximate the boundaries necessary to prevent the average annual amount of revenues
794 described in Subsection (1)(b)(i) from exceeding the average annual amount of costs described
795 in Subsection (1)(b)(ii) by more than 15%; and]~~

796 ~~[(H) approve the incorporation petition and hold an election for town officers, as
797 provided in Subsection (9).]~~

798 ~~[(ii) If the results of the financial feasibility study described in Subsection (8)(a)(i)
799 show that the average annual amount of costs described in Subsection (1)(b)(ii) exceeds the
800 average annual amount of revenues described in Subsection (1)(b)(i) by more than 15%, the~~

801 county legislative body shall:]

802 [~~(A) approve the petition;~~]

803 [~~(B) deny the petition in accordance with Subsection (8)(c)(iii); or~~]

804 [~~(C) (I) with the consent of the petition sponsors;~~]

805 [~~(Aa) impose conditions to prevent the average annual amount of costs described in~~

806 Subsection (1)(b)(ii) from exceeding the average annual amount of revenues described in

807 Subsection (1)(b)(i) by more than 15%; or]

808 [~~(Bb) alter the boundaries of the area proposed to be incorporated as a town to~~

809 approximate the boundaries necessary to prevent the average annual amount of costs described

810 in Subsection (1)(b)(ii) from exceeding the average annual amount of revenues described in

811 Subsection (1)(b)(i) by more than 15%; and]

812 [~~(H) approve the incorporation petition and hold an election for town officers, as~~

813 provided in Subsection (9).]

814 [(iii) A county legislative body intending to deny a petition under Subsection

815 (8)(c)(i)(A) or (8)(c)(ii)(B) shall deny the petition within 20 days after the feasibility consultant

816 submits the written results of the financial feasibility study.];

817 [(d) Each town that incorporates pursuant to a petition approved after the county

818 legislative body imposes conditions under Subsection (8)(c)(i)(B)(I)(Aa) or (8)(c)(ii)(C)(I)(Aa)

819 shall comply with those conditions.];

820 [(9) (a) The legislative body of the county in which the proposed new town is located

821 shall hold the election for town officers provided for in Subsection (8) within:];

822 [(i) 45 days after the day on which the feasibility consultant submits the written results

823 of the financial feasibility study, for an election under Subsection (8)(b); or]

824 [(ii) 60 days after the day on which the feasibility consultant submits the written results

825 of the financial feasibility study, for an election under Subsection (8)(c)(i)(B)(II) or

826 (8)(c)(ii)(B)(II).];

827 [(b) The officers elected at an election under Subsection (9)(a) shall take office:];

828 [(i) at noon on the first Monday in January next following the election, if the election is

829 held on a regular general or municipal general election date; or]

830 [(ii) at noon on the first day of the month next following the effective date of the

831 incorporation under Subsection (12), if the election of officers is held on any other date.];

832 ~~[(10) Each newly incorporated town shall operate under the five-member council form~~
833 ~~of government as defined in Section 10-3b-102.]~~

834 ~~[(11) The mayor-elect of the future town shall:]~~

835 ~~[(a) within 30 days after the canvass of the election of town officers under Subsection~~
836 ~~(9), file with the lieutenant governor:]~~

837 ~~[(i) a copy of a notice of an impending boundary action, as defined in Section~~
838 ~~67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and]~~

839 ~~[(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and]~~

840 ~~[(b) upon the lieutenant governor's issuance of a certificate of incorporation under~~
841 ~~Section 67-1a-6.5:]~~

842 ~~[(i) if the town is located within the boundary of a single county, submit to the recorder~~
843 ~~of that county the original:]~~

844 ~~[(A) notice of an impending boundary action;]~~

845 ~~[(B) certificate of incorporation; and]~~

846 ~~[(C) approved final local entity plat; or]~~

847 ~~[(ii) if the town is located within the boundaries of more than a single county, submit~~
848 ~~the original of the documents listed in Subsections (11)(b)(i)(A), (B), and (C) to one of those~~
849 ~~counties and a certified copy of those documents to each other county:]~~

850 ~~[(12) (a) A new town is incorporated:]~~

851 ~~[(i) on December 31 of the year in which the lieutenant governor issues a certificate of~~
852 ~~incorporation under Section 67-1a-6.5, if the election of town officers under Subsection (9) is~~
853 ~~held on a regular general or municipal general election date; or]~~

854 ~~[(ii) on the last day of the month during which the lieutenant governor issues a~~
855 ~~certificate of incorporation under Section 67-1a-6.5, if the election of town officers under~~
856 ~~Subsection (9) is held on any other date:]~~

857 ~~[(b) (i) The effective date of an incorporation for purposes of assessing property within~~
858 ~~the new town is governed by Section 59-2-305.5:]~~

859 ~~[(ii) Until the documents listed in Subsection (11)(b) are recorded in the office of the~~
860 ~~recorder of each county in which the property is located, a newly incorporated town may not:]~~

861 ~~[(A) levy or collect a property tax on property within the town;]~~

862 ~~[(B) levy or collect an assessment on property within the town; or]~~

863 ~~[(C) charge or collect a fee for service provided to property within the town.]~~
864 ~~[(13) For each petition filed before March 5, 2008:]~~
865 ~~[(a) the petition is subject to and governed by the law in effect at the time the petition~~
866 ~~was filed; and]~~
867 ~~[(b) the law in effect at the time the petition was filed governs in all administrative and~~
868 ~~judicial proceedings relating to the petition.]~~

869 Section 12. Section **10-2-126** is enacted to read:

870 **10-2-126. Incorporation of town -- Public hearing on feasibility.**

871 (1) If, in accordance with Section 10-2-125, the county clerk certifies a petition for
872 incorporation or an amended petition for incorporation, the county legislative body shall, at its
873 next regular meeting after completion of the feasibility study, schedule a public hearing to:

874 (a) be held no later than 60 days after the day on which the feasibility study is
875 completed; and

876 (b) consider, in accordance with Subsection (3)(b), the feasibility of incorporation for
877 the proposed town.

878 (2) The county legislative body shall give notice of the public hearing on the proposed
879 incorporation by:

880 (a) posting notice of the public hearing on the county's Internet website, if the county
881 has an Internet website;

882 (b) (i) publishing notice of the public hearing at least once a week for two consecutive
883 weeks in a newspaper of general circulation within the proposed town; or

884 (ii) if there is no newspaper of general circulation within the proposed town, posting
885 notice of the public hearing in at least five conspicuous public places within the proposed
886 town; and

887 (c) publishing notice of the public hearing on the Utah Public Notice Website created
888 in Section 63F-1-701.

889 (3) At the public hearing scheduled in accordance with Subsection (1), the county
890 legislative body shall:

891 (a) (i) provide a copy of the feasibility study; and

892 (ii) present the results of the feasibility study to the public; and

893 (b) allow the public to:

- 894 (i) review the map or plat of the boundary of the proposed town;
- 895 (ii) ask questions and become informed about the proposed incorporation; and
- 896 (iii) express its views about the proposed incorporation, including their views about the
- 897 boundary of the area proposed to be incorporated.

898 Section 13. Section **10-2-127** is enacted to read:

899 **10-2-127. Incorporation of town -- Election to incorporate -- Ballot form.**

900 (1) (a) At the next regular general election, as defined in Section 20A-1-102, more than

901 60 days after the public hearing described in Section 10-2-126, the county legislative body shall

902 hold an election on the proposed incorporation.

903 (b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102,

904 within the boundaries of the proposed town, the person may not vote on the proposed

905 incorporation.

906 (2) (a) The county clerk shall publish notice of the election:

907 (i) in a newspaper of general circulation, within the area proposed to be incorporated,

908 at least once a week for three successive weeks; and

909 (ii) in accordance with Section 45-1-101 for three weeks.

910 (b) The notice required by Subsection (2)(a) shall contain:

911 (i) a statement of the contents of the petition;

912 (ii) a description of the area proposed to be incorporated as a town;

913 (iii) a statement of the date and time of the election and the location of polling places;

914 and

915 (iv) the county Internet website address, if applicable, and the address of the county

916 office where the feasibility study is available for review.

917 (c) The last publication of notice required under Subsection (2)(a) shall occur at least

918 one day but no more than seven days before the election.

919 (d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general

920 circulation within the proposed town, the county clerk shall post at least one notice of the

921 election per 100 population in conspicuous places within the proposed town that are most

922 likely to give notice of the election to the voters of the proposed town.

923 (ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before

924 the election under Subsection (1)(a).

925 (3) The ballot at the incorporation election shall pose the incorporation question
926 substantially as follows:

927 Shall the area described as (insert a description of the proposed town) be incorporated
928 as the town of (insert the proposed name of the proposed town)?

929 (4) The ballot shall provide a space for the voter to answer yes or no to the question in
930 Subsection (3).

931 (5) If a majority of those casting votes within the area boundaries of the proposed town
932 vote to incorporate as a town, the area shall incorporate.

933 Section 14. Section **10-2-128** is enacted to read:

934 **10-2-128. Form of government -- Election of officers of new town.**

935 (1) A newly incorporated town shall operate under the five-member council form of
936 government as defined in Section 10-3b-102.

937 (2) (a) The county legislative body of the county in which a newly incorporated town is
938 located shall hold an election for town officers at the next special election after the regular
939 general election in which the town incorporation is approved.

940 (b) The officers elected at an election described in Subsection (2)(a) shall take office at
941 noon on the first Monday in January next following the special election described in
942 Subsection (2)(a).

943 Section 15. Section **10-2-129** is enacted to read:

944 **10-2-129. Notice to lieutenant governor -- Effective date of incorporation -- Effect**
945 **of recording documents.**

946 (1) The mayor-elect of the future town shall:

947 (a) within 30 days after the canvass of the election of town officers under Section
948 10-2-128, file with the lieutenant governor:

949 (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5,
950 that meets the requirements of Subsection 67-1a-6.5(3); and

951 (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

952 (b) upon the lieutenant governor's issuance of a certificate of incorporation under
953 Section 67-1a-6.5:

954 (i) if the town is located within the boundary of a single county, submit to the recorder
955 of that county the original:

956 (A) notice of an impending boundary action;

957 (B) certificate of incorporation; and

958 (C) approved final local entity plat; or

959 (ii) if the town is located within the boundaries of more than a single county, submit

960 the original of the documents listed in Subsections (1)(b)(i)(A), (B), and (C) to one of those

961 counties and a certified copy of those documents to each other county.

962 (2) (a) A new town is incorporated:

963 (i) on December 31 of the year in which the lieutenant governor issues a certificate of

964 incorporation under Section 67-1a-6.5, if the election of town officers under Section 10-2-128

965 is held on a regular general or municipal general election date; or

966 (ii) on the last day of the month during which the lieutenant governor issues a

967 certificate of incorporation under Section 67-1a-6.5, if the election of town officers under

968 Section 10-2-128 is held on any other date.

969 (b) (i) The effective date of an incorporation for purposes of assessing property within

970 the new town is governed by Section 59-2-305.5.

971 (ii) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the

972 recorder of each county in which the property is located, a newly incorporated town may not:

973 (A) levy or collect a property tax on property within the town;

974 (B) levy or collect an assessment on property within the town; or

975 (C) charge or collect a fee for service provided to property within the town.

976 Section 16. Section **17-27a-302** is amended to read:

977 **17-27a-302. Planning commission powers and duties.**

978 (1) Each countywide or township planning commission shall, with respect to the

979 unincorporated area of the county, or the township, make a recommendation to the county

980 legislative body for:

981 (a) a general plan and amendments to the general plan;

982 (b) land use ordinances, zoning maps, official maps, and amendments;

983 (c) an appropriate delegation of power to at least one designated land use authority to

984 hear and act on a land use application;

985 (d) an appropriate delegation of power to at least one appeal authority to hear and act

986 on an appeal from a decision of the land use authority; and

987 (e) application processes that:

988 (i) may include a designation of routine land use matters that, upon application and
989 proper notice, will receive informal streamlined review and action if the application is
990 uncontested; and

991 (ii) shall protect the right of each:

992 (A) applicant and third party to require formal consideration of any application by a
993 land use authority;

994 (B) applicant, adversely affected party, or county officer or employee to appeal a land
995 use authority's decision to a separate appeal authority; and

996 (C) participant to be heard in each public hearing on a contested application.

997 (2) The planning commission of a township under this part may recommend to the
998 legislative body of the county in which the township is located[~~-(a) that the legislative body
999 support or oppose a proposed incorporation of an area located within the township, as provided
1000 in Subsection 10-2-105(4); or (b)] that the legislative body file a protest to a proposed
1001 annexation of an area located within the township, as provided in Subsection 10-2-407(1)(b).~~

1002 Section 17. Section **20A-1-102** is amended to read:

1003 **20A-1-102. Definitions.**

1004 As used in this title:

1005 (1) "Active voter" means a registered voter who has not been classified as an inactive
1006 voter by the county clerk.

1007 (2) "Automatic tabulating equipment" means apparatus that automatically examines
1008 and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

1009 (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic,
1010 upon which a voter records the voter's votes.

1011 (b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy
1012 envelopes.

1013 (4) "Ballot sheet":

1014 (a) means a ballot that:

1015 (i) consists of paper or a card where the voter's votes are marked or recorded; and

1016 (ii) can be counted using automatic tabulating equipment; and

1017 (b) includes punch card ballots and other ballots that are machine-countable.

- 1018 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that:
1019 (a) contain the names of offices and candidates and statements of ballot propositions to
1020 be voted on; and
1021 (b) are used in conjunction with ballot sheets that do not display that information.
1022 (6) "Ballot proposition" means a question, issue, or proposal that is submitted to voters
1023 on the ballot for their approval or rejection including:
1024 (a) an opinion question specifically authorized by the Legislature;
1025 (b) a constitutional amendment;
1026 (c) an initiative;
1027 (d) a referendum;
1028 (e) a bond proposition;
1029 (f) a judicial retention question; ~~(g)~~
1030 (g) an incorporation of a city or town; or
1031 ~~(g)~~ (h) any other ballot question specifically authorized by the Legislature.
1032 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
1033 20A-4-306 to canvass election returns.
1034 (8) "Bond election" means an election held for the purpose of approving or rejecting
1035 the proposed issuance of bonds by a government entity.
1036 (9) "Book voter registration form" means voter registration forms contained in a bound
1037 book that are used by election officers and registration agents to register persons to vote.
1038 (10) "By-mail voter registration form" means a voter registration form designed to be
1039 completed by the voter and mailed to the election officer.
1040 (11) "Canvass" means the review of election returns and the official declaration of
1041 election results by the board of canvassers.
1042 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at
1043 the canvass.
1044 (13) "Contracting election officer" means an election officer who enters into a contract
1045 or interlocal agreement with a provider election officer.
1046 (14) "Convention" means the political party convention at which party officers and
1047 delegates are selected.
1048 (15) "Counting center" means one or more locations selected by the election officer in

1049 charge of the election for the automatic counting of ballots.

1050 (16) "Counting judge" means a poll worker designated to count the ballots during
1051 election day.

1052 (17) "Counting poll watcher" means a person selected as provided in Section
1053 20A-3-201 to witness the counting of ballots.

1054 (18) "Counting room" means a suitable and convenient private place or room,
1055 immediately adjoining the place where the election is being held, for use by the poll workers
1056 and counting judges to count ballots during election day.

1057 (19) "County officers" means those county officers that are required by law to be
1058 elected.

1059 (20) "Date of the election" or "election day" or "day of the election":

1060 (a) means the day that is specified in the calendar year as the day that the election
1061 occurs; and

1062 (b) does not include:

1063 (i) deadlines established for absentee voting; or

1064 (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early
1065 Voting.

1066 (21) "Elected official" means:

1067 (a) a person elected to an office under Section 20A-1-303;

1068 (b) a person who is considered to be elected to a municipal office in accordance with
1069 Subsection 20A-1-206(1)(c)(ii); or

1070 (c) a person who is considered to be elected to a local district office in accordance with
1071 Subsection 20A-1-206(3)(c)(ii).

1072 (22) "Election" means a regular general election, a municipal general election, a
1073 statewide special election, a local special election, a regular primary election, a municipal
1074 primary election, and a local district election.

1075 (23) "Election Assistance Commission" means the commission established by Public
1076 Law 107-252, the Help America Vote Act of 2002.

1077 (24) "Election cycle" means the period beginning on the first day persons are eligible to
1078 file declarations of candidacy and ending when the canvass is completed.

1079 (25) "Election judge" means a poll worker that is assigned to:

- 1080 (a) preside over other poll workers at a polling place;
- 1081 (b) act as the presiding election judge; or
- 1082 (c) serve as a canvassing judge, counting judge, or receiving judge.
- 1083 (26) "Election officer" means:
- 1084 (a) the lieutenant governor, for all statewide ballots and elections;
- 1085 (b) the county clerk for:
- 1086 (i) a county ballot and election; and
- 1087 (ii) a ballot and election as a provider election officer as provided in Section
- 1088 20A-5-400.1 or 20A-5-400.5;
- 1089 (c) the municipal clerk for:
- 1090 (i) a municipal ballot and election; and
- 1091 (ii) a ballot and election as a provider election officer as provided in Section
- 1092 20A-5-400.1 or 20A-5-400.5;
- 1093 (d) the local district clerk or chief executive officer for:
- 1094 (i) a local district ballot and election; and
- 1095 (ii) a ballot and election as a provider election officer as provided in Section
- 1096 20A-5-400.1 or 20A-5-400.5; or
- 1097 (e) the business administrator or superintendent of a school district for:
- 1098 (i) a school district ballot and election; and
- 1099 (ii) a ballot and election as a provider election officer as provided in Section
- 1100 20A-5-400.1 or 20A-5-400.5.
- 1101 (27) "Election official" means:
- 1102 (a) for an election other than a bond election, the count of votes cast in the election and
- 1103 the election returns requested by the board of canvassers; or
- 1104 (b) any election officer, election judge, or poll worker.
- 1105 (28) "Election results" means:
- 1106 (a) for an election other than a bond election, the count of votes cast in the election and
- 1107 the election returns requested by the board of canvassers; or
- 1108 (b) for bond elections, the count of those votes cast for and against the bond
- 1109 proposition plus any or all of the election returns that the board of canvassers may request.
- 1110 (29) "Election returns" includes the pollbook, all affidavits of registration, the military

1111 and overseas absentee voter registration and voting certificates, one of the tally sheets, any
1112 unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all
1113 spoiled ballots, the ballot disposition form, and the total votes cast form.

1114 (30) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
1115 device or other voting device that records and stores ballot information by electronic means.

1116 (31) "Electronic signature" means an electronic sound, symbol, or process attached to
1117 or logically associated with a record and executed or adopted by a person with the intent to sign
1118 the record.

1119 (32) (a) "Electronic voting device" means a voting device that uses electronic ballots.

1120 (b) "Electronic voting device" includes a direct recording electronic voting device.

1121 (33) "Inactive voter" means a registered voter who has:

1122 (a) been sent the notice required by Section 20A-2-306; and

1123 (b) failed to respond to that notice.

1124 (34) "Inspecting poll watcher" means a person selected as provided in this title to
1125 witness the receipt and safe deposit of voted and counted ballots.

1126 (35) "Judicial office" means the office filled by any judicial officer.

1127 (36) "Judicial officer" means any justice or judge of a court of record or any county
1128 court judge.

1129 (37) "Local district" means a local government entity under Title 17B, Limited Purpose
1130 Local Government Entities - Local Districts, and includes a special service district under Title
1131 17D, Chapter 1, Special Service District Act.

1132 (38) "Local district officers" means those local district officers that are required by law
1133 to be elected.

1134 (39) "Local election" means a regular municipal election, a local special election, a
1135 local district election, and a bond election.

1136 (40) "Local political subdivision" means a county, a municipality, a local district, or a
1137 local school district.

1138 (41) "Local special election" means a special election called by the governing body of a
1139 local political subdivision in which all registered voters of the local political subdivision may
1140 vote.

1141 (42) "Municipal executive" means:

1142 (a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

1143 or

1144 (b) the mayor in the council-manager form of government defined in Subsection
1145 10-3b-103(6).

1146 (43) "Municipal general election" means the election held in municipalities and local
1147 districts on the first Tuesday after the first Monday in November of each odd-numbered year
1148 for the purposes established in Section 20A-1-202.

1149 (44) "Municipal legislative body" means the council of the city or town in any form of
1150 municipal government.

1151 (45) "Municipal office" means an elective office in a municipality.

1152 (46) "Municipal officers" means those municipal officers that are required by law to be
1153 elected.

1154 (47) "Municipal primary election" means an election held to nominate candidates for
1155 municipal office.

1156 (48) "Official ballot" means the ballots distributed by the election officer to the poll
1157 workers to be given to voters to record their votes.

1158 (49) "Official endorsement" means:

1159 (a) the information on the ballot that identifies:

1160 (i) the ballot as an official ballot;

1161 (ii) the date of the election; and

1162 (iii) the facsimile signature of the election officer; and

1163 (b) the information on the ballot stub that identifies:

1164 (i) the poll worker's initials; and

1165 (ii) the ballot number.

1166 (50) "Official register" means the official record furnished to election officials by the
1167 election officer that contains the information required by Section 20A-5-401.

1168 (51) "Paper ballot" means a paper that contains:

1169 (a) the names of offices and candidates and statements of ballot propositions to be
1170 voted on; and

1171 (b) spaces for the voter to record the voter's vote for each office and for or against each
1172 ballot proposition.

1173 (52) "Political party" means an organization of registered voters that has qualified to
1174 participate in an election by meeting the requirements of Chapter 8, Political Party Formation
1175 and Procedures.

1176 (53) (a) "Poll worker" means a person assigned by an election official to assist with an
1177 election, voting, or counting votes.

1178 (b) "Poll worker" includes election judges.

1179 (c) "Poll worker" does not include a watcher.

1180 (54) "Pollbook" means a record of the names of voters in the order that they appear to
1181 cast votes.

1182 (55) "Polling place" means the building where voting is conducted.

1183 (56) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
1184 in which the voter marks the voter's choice.

1185 (57) "Provider election officer" means an election officer who enters into a contract or
1186 interlocal agreement with a contracting election officer to conduct an election for the
1187 contracting election officer's local political subdivision in accordance with Section
1188 20A-5-400.1.

1189 (58) "Provisional ballot" means a ballot voted provisionally by a person:

1190 (a) whose name is not listed on the official register at the polling place;

1191 (b) whose legal right to vote is challenged as provided in this title; or

1192 (c) whose identity was not sufficiently established by a poll worker.

1193 (59) "Provisional ballot envelope" means an envelope printed in the form required by
1194 Section 20A-6-105 that is used to identify provisional ballots and to provide information to
1195 verify a person's legal right to vote.

1196 (60) "Primary convention" means the political party conventions at which nominees for
1197 the regular primary election are selected.

1198 (61) "Protective counter" means a separate counter, which cannot be reset, that:

1199 (a) is built into a voting machine; and

1200 (b) records the total number of movements of the operating lever.

1201 (62) "Qualify" or "qualified" means to take the oath of office and begin performing the
1202 duties of the position for which the person was elected.

1203 (63) "Receiving judge" means the poll worker that checks the voter's name in the

1204 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
1205 after the voter has voted.

1206 (64) "Registration form" means a book voter registration form and a by-mail voter
1207 registration form.

1208 (65) "Regular ballot" means a ballot that is not a provisional ballot.

1209 (66) "Regular general election" means the election held throughout the state on the first
1210 Tuesday after the first Monday in November of each even-numbered year for the purposes
1211 established in Section 20A-1-201.

1212 (67) "Regular primary election" means the election on the fourth Tuesday of June of
1213 each even-numbered year, to nominate candidates of political parties and nonpolitical groups to
1214 advance to the regular general election.

1215 (68) "Resident" means a person who resides within a specific voting precinct in Utah.

1216 (69) "Sample ballot" means a mock ballot similar in form to the official ballot printed
1217 and distributed as provided in Section 20A-5-405.

1218 (70) "Scratch vote" means to mark or punch the straight party ticket and then mark or
1219 punch the ballot for one or more candidates who are members of different political parties.

1220 (71) "Secrecy envelope" means the envelope given to a voter along with the ballot into
1221 which the voter places the ballot after the voter has voted it in order to preserve the secrecy of
1222 the voter's vote.

1223 (72) "Special election" means an election held as authorized by Section 20A-1-204.

1224 (73) "Spoiled ballot" means each ballot that:

1225 (a) is spoiled by the voter;

1226 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

1227 (c) lacks the official endorsement.

1228 (74) "Statewide special election" means a special election called by the governor or the
1229 Legislature in which all registered voters in Utah may vote.

1230 (75) "Stub" means the detachable part of each ballot.

1231 (76) "Substitute ballots" means replacement ballots provided by an election officer to
1232 the poll workers when the official ballots are lost or stolen.

1233 (77) "Ticket" means each list of candidates for each political party or for each group of
1234 petitioners.

1235 (78) "Transfer case" means the sealed box used to transport voted ballots to the
1236 counting center.

1237 (79) "Vacancy" means the absence of a person to serve in any position created by
1238 statute, whether that absence occurs because of death, disability, disqualification, resignation,
1239 or other cause.

1240 (80) "Valid voter identification" means:

1241 (a) a form of identification that bears the name and photograph of the voter which may
1242 include:

1243 (i) a currently valid Utah driver license;

1244 (ii) a currently valid identification card that is issued by:

1245 (A) the state; or

1246 (B) a branch, department, or agency of the United States;

1247 (iii) a currently valid Utah permit to carry a concealed weapon;

1248 (iv) a currently valid United States passport; or

1249 (v) a currently valid United States military identification card;

1250 (b) one of the following identification cards, whether or not the card includes a
1251 photograph of the voter:

1252 (i) a valid tribal identification card;

1253 (ii) a Bureau of Indian Affairs card; or

1254 (iii) a tribal treaty card; or

1255 (c) two forms of identification not listed under Subsection (80)(a) or (b) but that bear
1256 the name of the voter and provide evidence that the voter resides in the voting precinct, which
1257 may include:

1258 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
1259 election;

1260 (ii) a bank or other financial account statement, or a legible copy thereof;

1261 (iii) a certified birth certificate;

1262 (iv) a valid Social Security card;

1263 (v) a check issued by the state or the federal government or a legible copy thereof;

1264 (vi) a paycheck from the voter's employer, or a legible copy thereof;

1265 (vii) a currently valid Utah hunting or fishing license;

- 1266 (viii) certified naturalization documentation;
- 1267 (ix) a currently valid license issued by an authorized agency of the United States;
- 1268 (x) a certified copy of court records showing the voter's adoption or name change;
- 1269 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- 1270 (xii) a currently valid identification card issued by:
 - 1271 (A) a local government within the state;
 - 1272 (B) an employer for an employee; or
 - 1273 (C) a college, university, technical school, or professional school located within the
 - 1274 state; or
- 1275 (xiii) a current Utah vehicle registration.
- 1276 (81) "Valid write-in candidate" means a candidate who has qualified as a write-in
- 1277 candidate by following the procedures and requirements of this title.
- 1278 (82) "Voter" means a person who:
 - 1279 (a) meets the requirements for voting in an election;
 - 1280 (b) meets the requirements of election registration;
 - 1281 (c) is registered to vote; and
 - 1282 (d) is listed in the official register book.
- 1283 (83) "Voter registration deadline" means the registration deadline provided in Section
- 1284 20A-2-102.5.
- 1285 (84) "Voting area" means the area within six feet of the voting booths, voting
- 1286 machines, and ballot box.
- 1287 (85) "Voting booth" means:
 - 1288 (a) the space or compartment within a polling place that is provided for the preparation
 - 1289 of ballots, including the voting machine enclosure or curtain; or
 - 1290 (b) a voting device that is free standing.
- 1291 (86) "Voting device" means:
 - 1292 (a) an apparatus in which ballot sheets are used in connection with a punch device for
 - 1293 piercing the ballots by the voter;
 - 1294 (b) a device for marking the ballots with ink or another substance;
 - 1295 (c) an electronic voting device or other device used to make selections and cast a ballot
 - 1296 electronically, or any component thereof;

1297 (d) an automated voting system under Section 20A-5-302; or
1298 (e) any other method for recording votes on ballots so that the ballot may be tabulated
1299 by means of automatic tabulating equipment.

1300 (87) "Voting machine" means a machine designed for the sole purpose of recording
1301 and tabulating votes cast by voters at an election.

1302 (88) "Voting poll watcher" means a person appointed as provided in this title to
1303 witness the distribution of ballots and the voting process.

1304 (89) "Voting precinct" means the smallest voting unit established as provided by law
1305 within which qualified voters vote at one polling place.

1306 (90) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting
1307 poll watcher, and a testing watcher.

1308 (91) "Western States Presidential Primary" means the election established in Chapter 9,
1309 Part 8, Western States Presidential Primary.

1310 (92) "Write-in ballot" means a ballot containing any write-in votes.

1311 (93) "Write-in vote" means a vote cast for a person whose name is not printed on the
1312 ballot according to the procedures established in this title.

1313 Section 18. Section **20A-1-203** is amended to read:

1314 **20A-1-203. Calling and purpose of special elections -- Two-thirds vote**
1315 **limitations.**

1316 (1) Statewide and local special elections may be held for any purpose authorized by
1317 law.

1318 (2) (a) Statewide special elections shall be conducted using the procedure for regular
1319 general elections.

1320 (b) Except as otherwise provided in this title, local special elections shall be conducted
1321 using the procedures for regular municipal elections.

1322 (3) The governor may call a statewide special election by issuing an executive order
1323 that designates:

1324 (a) the date for the statewide special election; and

1325 (b) the purpose for the statewide special election.

1326 (4) The Legislature may call a statewide special election by passing a joint or
1327 concurrent resolution that designates:

- 1328 (a) the date for the statewide special election; and
1329 (b) the purpose for the statewide special election.
- 1330 (5) (a) The legislative body of a local political subdivision may call a local special
1331 election only for:
- 1332 (i) a vote on a bond or debt issue;
 - 1333 (ii) a vote on a voted local levy authorized by Section 53A-17a-133;
 - 1334 (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;
 - 1335 (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;
 - 1336 (v) if required or authorized by federal law, a vote to determine whether or not Utah's
1337 legal boundaries should be changed;
 - 1338 (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;
 - 1339 (vii) a vote to elect members to school district boards for a new school district and a
1340 remaining school district, as defined in Section 53A-2-117, following the creation of a new
1341 school district under Section 53A-2-118.1; or
 - 1342 (viii) an election of town officers of a newly incorporated town under [~~Subsection~~
1343 ~~10-2-125(9)~~] Section 10-2-128.

1344 (b) The legislative body of a local political subdivision may call a local special election
1345 by adopting an ordinance or resolution that designates:

- 1346 (i) the date for the local special election; and
 - 1347 (ii) the purpose for the local special election.
- 1348 (c) A local political subdivision may not call a local special election unless the
1349 ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a
1350 two-thirds majority of all members of the legislative body, if the local special election is for:
- 1351 (i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);
 - 1352 (ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or
 - 1353 (iii) a vote authorized or required for a sales tax issue as described in Subsection
1354 (5)(a)(vi).

1355 Section 19. Section **20A-1-204** is amended to read:

1356 **20A-1-204. Date of special election -- Legal effect.**

1357 (1) (a) The governor, Legislature, or the legislative body of a local political subdivision
1358 calling a statewide special election or local special election under Section 20A-1-203 shall

1359 schedule the special election to be held on:

1360 (i) the fourth Tuesday in June;

1361 (ii) the first Tuesday after the first Monday in November; or

1362 (iii) for an election of town officers of a newly incorporated town under [~~Subsection~~
1363 ~~10-2-125(9)~~] Section 10-2-128, on any date that complies with the requirements of that
1364 subsection.

1365 (b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative
1366 body of a local political subdivision calling a statewide special election or local special election
1367 under Section 20A-1-203 may not schedule a special election to be held on any other date.

1368 (c) (i) Notwithstanding the requirements of Subsection (1)(b), the legislative body of a
1369 local political subdivision may call a local special election on a date other than those specified
1370 in this section if the legislative body:

1371 (A) determines and declares that there is a disaster, as defined in Section 63K-3-102,
1372 requiring that a special election be held on a date other than the ones authorized in statute;

1373 (B) identifies specifically the nature of the disaster, as defined in Section 63K-3-102,
1374 and the reasons for holding the special election on that other date; and

1375 (C) votes unanimously to hold the special election on that other date.

1376 (ii) The legislative body of a local political subdivision may not call a local special
1377 election for the date established in [~~Title 20A,~~] Chapter 9, Part 8, Western States Presidential
1378 Primary, for Utah's Western States Presidential Primary.

1379 (d) Nothing in this section prohibits:

1380 (i) the governor or Legislature from submitting a matter to the voters at the regular
1381 general election if authorized by law; or

1382 (ii) a local government from submitting a matter to the voters at the regular municipal
1383 election if authorized by law.

1384 (2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a
1385 special election within a county on the same day as:

1386 (i) another special election;

1387 (ii) a regular general election; or

1388 (iii) a municipal general election.

1389 (b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:

- 1390 (i) polling places;
- 1391 (ii) ballots;
- 1392 (iii) election officials; and
- 1393 (iv) other administrative and procedural matters connected with the election.